

## THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

### **40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.**

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(a) "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – \_\_\_\_\_ ~~2-12-06~~".

(b) through (k) No Change.

(2) No Change.

*Specific Authority 373.044, 373.113, 373.171, 373.413, 704.06 FS. Law Implemented 373.413, 373.4135, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, 704.06 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01, 7-19-01, 6-26-02, 6 -26-02, 4-6-03, 4-14-03, 9-16-03, 12-7-04, 2-12-06, \_\_\_\_\_.*

(The following represents proposed changes to the document entitled "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District - 2-12-06" incorporated by reference in Rule 40E-4.091, F.A.C.)

### **4.3.8 Real Property Conveyances and Restrictions**

- (a) All conservation easements and restrictive covenants pursuant to Section 704.06, F.S., shall be granted in perpetuity without encumbrances, unless such encumbrances do not have the potential to adversely affect the ecological viability of the mitigation. All liens against the ~~conservation~~

easement area preserved pursuant to Section 704.06, F.S., site shall be released, subordinated to, or joined with the conservation easement or restrictive covenant. ~~All~~Conservation easements and restrictive covenants shall be consistent with Section 704.06, F.S.; and shall contain restrictions that ensure the ecological viability of the site.

(b) Plat restrictions proposed to meet the requirements of Section 704.06, F.S. and Section 4.3.2.2 must contain the language contained in Section 704.06 (1)(a) – (h), F.S. In order to provide reasonable assurance of the preservation of the protected area in accordance with the permit in perpetuity, plat language shall provide the District a third-party right to enforce the restrictions of Section 704.06, F.S., and shall further provide that the Section 704.06, F.S. plat restrictions cannot be altered, released or revoked without the prior written consent of the District.

(c) The use of Form No(s) 1190-1192 and 1194-1197, referenced in Chapter 40E-1.659, F.A.C., shall constitute consistency with Section 704.06, F.S. Where project specific conditions warrant deviation from the language of the accepted forms, alternative language may be accepted as long as it meets the provisions, purpose and intent of Section 704.06, F.S., and this  
Basis of Review.

~~(d)(b)~~ All real property conveyances shall be in fee simple and by statutory warranty deed, special warranty deed, or other deed, without encumbrances that adversely affect the integrity of the preservation objectives. The District shall also accept a quit claim deed if necessary to

aid in clearing minor title defects or otherwise resolving boundary questions.